

Attorney Docket No: 25402-005
Appln. Serial No.10/822,083

REMARKS

In light of the above amendatory matter and remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1-49 are pending in the application. Claim 28 remains withdrawn as being directed to a non-elected species. Independent claims 1, 32, 38 and 45-49 have been amended; and dependent claims 11, 21, 22, 36, 41 and 42 have been amended consistent with their respective independent claim.

Applicants' independent claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Peilet (U.S. Patent 4,143,667) in view of Niedospial, Jr. (U.S. Patent 6,287,289), and alternatively, over Vayrette (U.S. Patent 6,672,314) in view of Niedospial, Jr. In each case, the Examiner asserts that Figure 28 of Niedospial, Jr. provides Applicants' claimed configuration. Applicants respectfully traverse the Examiner's rejection.

However, Applicants have amended independent claim 1, which recites "a handle comprising a plurality of internal surfaces in cross-section which define a flexible reservoir therein for containing a material and comprising closed and open ends, each of the plurality of internal surfaces extending between the open and closed ends, a first of the plurality of surfaces in cross-section diverging from a point at such closed end upwardly along substantially an entire length of the first surface, the point being in common with another of the plurality of surfaces in cross-section." Independent claims 32, 38 and 46-49 have been similarly amended.

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Independent claim 45 has been amended to recite, "an arcuate member extending longitudinally across the handle, and comprising a curvature substantially defined by the asymmetry of the reservoir, such curvature comprising an arc extending substantially along the entire length of the reservoir and to the opening thereof."

Applicants' reiterate their remarks as applicable to the references applied by the Examiner in the Final Office Action. With respect to the claims as now amended, however, Applicants believe they have clarified their invention in a manner which is not taught or suggested by Peilet, Vayrette and Niedospial Jr., either when taken alone or in combination.

Specifically, and as noted above, Applicants have amended their claims to set forth a configuration that provides for relative divergence of one reservoir internal surface in cross-section from another of such surfaces thereof. Such divergence results in a curvature that begins at a point at the closed end of the reservoir that is shared by such two surfaces and extends substantially upwardly therefrom to the open end of the reservoir.

This is not true of Niedospial Jr. In fact, Figure 28 thereof provides side surfaces which do not appear to meet at a common point as they are interrupted from doing so by marginal areas 508. Moreover, neither of its side surfaces provides a divergence from another thereof that extends substantially upwardly in the manner now claimed. Accordingly, as stated in Applicants' prior response, the references applied by the Examiner fail to provide Applicants' configuration and the advantages it enables.

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Thus, in view of the amendment(s) as proposed above, it is respectfully submitted that an interview to discuss the merits of claims as now amended is appropriate. Accordingly, the Examiner is invited to telephone the undersigned directly at (212) 790-9278 to schedule such an interview.

Respectfully submitted,

By: 

Brian H. Buck
Reg. No. 48,776

COWAN, LIEBOWITZ & LATMAN, P.C
1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9200